

MAGISTRATE JUDGE MARCIA M. HENRY

Standing Order for Settlement Conferences

**United States District Court
Eastern District of New York
225 Cadman Plaza East
Courtroom 504N
Brooklyn, New York 11201
Telephone: (718) 804-2740**

I. PRE-CONFERENCE PROCEDURES

A. Requests for Settlement Conference

1. Parties may request a settlement conference by filing a joint letter request via ECF. The letter must include four (4) dates when all counsel AND party representatives are available within the next eight (8) weeks for a three-hour block of time.
2. Counsel and *pro se* parties should be prepared and authorized to discuss the possibility of settlement at every court appearance.

B. Pre-Conference Exchange of Demand and an Offer

1. At least fourteen (14) days prior to the settlement conference, plaintiff (if *pro se*) or plaintiff's counsel shall submit a written itemization of damages and settlement demand to defendant (if *pro se*) or defendant's counsel with a brief explanation of why such a settlement is appropriate.
2. No later than seven (7) days prior to the settlement conference, defendant (if *pro se*) or defendant's counsel shall submit a written offer to plaintiff (if *pro se*) or plaintiff's counsel with a brief explanation of why such a settlement is appropriate.

C. *Ex Parte* Settlement Statements

1. At least five (5) business days before the settlement conference, each party shall submit to chambers by email (Henry_Chambers@nyed.uscourts.gov) an *ex parte* settlement statement not to exceed four (4) pages.
2. The *ex parte* statement will be treated as confidential, will not be shared with the other parties in the case, and will not be docketed.

3. The *ex parte* statement shall address the following: (1) the status of settlement discussions; (2) the most recent demand and offer made; (3) a **realistic** assessment of the strengths and weakness of the case (including legal analysis, where applicable); and (4) any information that may assist the Court in helping the parties resolve the matter (for example, issues that are important to the client or any barriers to settlement).
4. The *ex parte* settlement position statement must attach the party's most recently communicated demand or offer.
5. Consistent with the Federal Rules, statements made by any party during the settlement conference are generally inadmissible at trial.

D. Pre-Conference *Ex Parte* Calls

1. After receiving the settlement statements, Judge Henry may reach out to counsel *ex parte* via email to request a fifteen-minute telephone call to discuss the parties' positions prior to the conference.
2. Counsel should be prepared to engage in a candid discussion with the Court regarding any relevant sticking points or considerations for settlement.

II. SETTLEMENT CONFERENCE ATTENDANCE

A. Mandatory Attendance of Parties

1. Parties are required to personally attend the conference even if represented by counsel.
2. In the case of a corporate party, the individual attending the conference should be a corporate employee with full authority to settle the matter.
3. In the case of a government or municipal entity requiring the approval of a body, such as a board, legislature or agency, the individual attending the conference must be fully authorized to approve and submit a recommendation to that governing body or to contact in real time the person authorized to make such a recommendation.
4. An insured party shall appear with a representative of the insurer(s) authorized to negotiate, and who has full authority to settle the matter.
5. **Failure of a necessary party to attend a settlement conference may result in sanctions.** If any party has a question regarding who must appear

at a settlement conference before Judge Henry, they should file a letter on ECF at least five (5) days before the conference.

B. Adjournments

1. Parties must file a letter motion on ECF no later than three (3) business days prior to the settlement conference seeking to adjourn the conference. Any other party may respond to such a motion no later than two (2) business days prior to the conference.
2. Because the Court and the parties invest significant resources in these conferences, the failure of either a party and/or counsel to appear may result in sanctions, including payment of fees and costs of other parties who do attend the conference.

C. Interpreters

1. Any party requiring an interpreter for the settlement conference may use one; however, the Court does not provide interpreters.
2. Any interpreter should be able to conduct simultaneous and consecutive translation and be prepared to interpret the entire settlement conference.

D. Remote Settlement Conference Logistics

1. Settlement conferences will take place virtually via Zoom unless the Court orders otherwise.
2. After all parties submit their settlement papers, the Court shall email the parties a Zoom link for the settlement conference. The parties are encouraged to familiarize themselves with the Zoom platform prior to the scheduled conference time.
3. All parties should plan to access the Zoom link at least five (5) minutes prior to the scheduled conference time.